

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NAJARIAN CAPITAL LLC,

Plaintiff,

v.

1:15-cv-2642-WSD

**ALFREDA STRICKLAND, and All
Others, and JONATHAN
STRICKLAND,**

Defendants.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Walter E. Johnson's Final Report and Recommendation [4] ("R&R"). The R&R recommends remand of this action to the Magistrate Court of Clayton County, Georgia.

I. BACKGROUND

On July 27, 2015, Defendant Jonathan Strickland filed his application to proceed *in forma pauperis* ("IFP Application") and request to remove this case from the Magistrate Court of Clayton County, Georgia [1]. Defendant Alfreda Strickland did not submit her own IFP Application. On July 28, 2015, the Magistrate Judge directed Ms. Strickland to complete, within thirty (30) days, a form application to proceed IFP or to submit the full removal filing fee of \$400.

Ms. Strickland failed to do so. On September 1, 2015, the Court directed Mr. Strickland to pay, within ten days, the removal filing fee. He too failed to comply with the Magistrate Judge's order. The Magistrate Judge cautioned both Mr. and Ms. Strickland (together, "Defendants") that failure to comply with his orders would result in a recommendation that this case be dismissed for failure to prosecute. (July 28, 2015, Order [2]; September 1, 2015, Order [3]).

On September 23, 2015, the Magistrate Judge issued his R&R. In it, he recommended that, because Defendants failed to comply with lawful orders of the Court, Mr. Strickland's IFP Application should be denied and this case should be remanded to the Magistrate Court of Clayton County, Georgia.

Defendants did not file any objections to the R&R.

II. DISCUSSION

A. Legal Standard

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982) (per curiam). A district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C.

§ 636(b)(1). Where, as here, no party has objected to the report and recommendation, a court conducts only a plain error review of the record. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983) (per curiam).

B. Analysis

Local Rule 41.3(A)(2) provides that “[t]he court may, with or without notice to the parties, dismiss a civil case for want of prosecution if: . . . [a] plaintiff . . . shall, after notice, . . . fail or refuse to obey a lawful order of the court in the case.” LR 41.3(A)(2), NDGa.

The Magistrate Judge recommended that, because Defendants failed to comply with lawful orders of the Court, Mr. Strickland’s IFP Application should be denied and this case should be remanded to the Magistrate Court of Clayton County, Georgia. The Court finds no plain error in these findings and recommendation, and Mr. Strickland’s IFP Application is denied and this case is remanded to the Magistrate Court of Clayton County, Georgia. See Slay, 714 F.2d at 1095.

III. CONCLUSION


Accordingly, for the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Walter E. Johnson’s Final Report and Recommendation [4] (“R&R”) is **ADOPTED**.

IT IS FURTHER ORDERED that Defendant Jonathan Strickland's IFP Application [1] is **DENIED**.

IT IS FURTHER ORDERED that this case is **REMANDED** to the Magistrate Court of Clayton County, Georgia.

SO ORDERED this 1st day of April, 2016.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE